

IN THE DISTRICT COURT OF THE UNITED STATES

IN AND FOR THE DISTRICT OF UTAH,

IN EQUITY

DOCKET No. 4418

THE UNITED STATES OF AMERICA, and ALBERT B. FALL,
Secretary of the Interior, As trustees of the
Indians of the former Uintah and Ouray Indian
Reservation

Plaintiffs

vs.

DRY GULCH IRRIGATION COMPANY, FARMERS' IRRIGATION COMPANY,
FARNSWORTH CANAL AND RESERVOIR COMPANY, GOOD LUCK IRRIGATION
COMPANY, LAKE FORK IRRIGATION COMPANY, LAKE FORK WESTERN
IRRIGATION COMPANY, and UTELAND DITCH COMPANY, each and all
of the foregoing being corporations; NEW HOPE IRRIGATION
DISTRICT, a quasi-municipal corporation; LAFAYETTE BROTHER-
SON, WILLIAM BROTHERSON, HAYDEN CALVERT, SETH B. CLARK,
JAMES CRYSTAL, PAUL CURRY, LEANDER J. GILBERT, RAY J. GILL,
HENRY HAMILTON, JAMES HARTSELL, JAMES E. HARTSELL, HENDRICKS
H. HARVEY, ROBERT HYATT, ANDREW JOHANSEN, WILLIAM JOHNSTON,
MIKKEL KNUDSEN, EVA E. LEWIS, PETER O. MADSEN, CHARLES
MILNE, HAMES ME. MOORE, THOMAS MURDOCK, DAVID ORR, GEORGE
PARSON, NELS PARSON, ELISHA K. PURDY, ROBERT F. ROSS, GEORGE
T. SMITH, JAMES R. SMITH, JAMES C. SOLOMSON, BRIGHAM TIMOTHY,
JED TIMOTHY, and R. ERNEST WAUGH.

Defendants

D E C R E E

This cause having come on to be heard at this term upon
the complaint of the plaintiffs, the defaults and answers of
the defendants, and the stipulations herein between the
plaintiffs and certain of the defendants, and thereupon, upon
consideration thereof, it is ORDERED, ADJUDGED AND DECREED
as follows:-

1. The plaintiffs, the United States, and the Secretary
of the Interior as Trustees of the Indians on the former Uintah
and Ouray Indian Reservation, and also the owners by grant of
the allotments of the deceased Indians on the said reservation,
as against the Dry Gulch Irrigation Company, Farmers' Irrigation
Company, Farnsworth Canal and Reservoir Company, Good Luck
Irrigation Company, Lakefork Irrigation Company, Lake Fork
Western Irrigation Company and Uteland Ditch Company, each and all

A-360	43-3013	1221	A-359	1682	1213
A-4019	3032	1779	385	1685	1220
A-403	1686	1229	9072	3031	1175
3064	3014	1715			
3594	1683	1214			
366	1689	1217			

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of the foregoing being corporations; New Hope Irrigation District, a quasi-municipal corporation; Lafayette Brotherson, William Brotherson, Hayden Calvert, Seth B. Clark, James Crystal, Paul Curry, Leander J. Bilbert, Ray J. Gill, Henry Hamilton, James Hartsell, James E. Hartsell, Hendricks H. Harvey, Robert Hyatt, Andrew Johansen, William A. Johnston, Mikkell Knudsen, Eva E. Lewis, Peter C. Madsen, Charles Milne, James H. Moore, Thomas Murdock, David Orr, George Parson, Nels Parson, Elisha K. Purdy, Robert F. Ross, George T. Smith, James R. Smith, James C. Solmonson, Brigham Timothy, Jed Timothy, and R. Ernest Waugh, defendants herein, or any of them, and as against any demand or use whatever of them, or any of them, or of any diversion or use of water by or through the ditches belonging to them or any of them, having the first and an exclusive right under a priority that antedates the third day of October, 1861, at all times to divert from the Lake Fork River and its tributaries by certain ditches and canals water in certain quantities at certain times and under certain conditions for the irrigation of certain lands and for certain domestic, culinary and stock-watering uses - all as described and fixed by the following schedule and other parts of this decree.

Name of Ditch or Canal	Acres Irrigated Under Each Ditch	Water Permitted to divert each season in Acre Feet	Water permitted to divert in Second Ft.
Lake Fork Extension	1230.76	3692.28	17.58
Lake Fork	9701.43	29104.29	138.59
Payne Lateral	493.20	1479.60	7.05
Red Cap	8751.74	26255.32	125.05
Dry Gulch	4871.57	14614.71	69.6
Uteland	22.90	68.70	.33
Totals	25071.60	75214.80	358.18

The said 25071.60 acres of land to be irrigated and the other uses under said ditches and canals are as more particularly described in the final certificates of appropriation for the several said named ditches and canals as the same appears upon the records of the office of the State Engineer of the State of Utah, and which are numbered to-wit: 1171, 1231, 1215, 1229, 1214, 1217, 1213, 1220, 1228, and 1175.

The location of the head or intake of each of said ditches or canals is as follows:

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The heads of both the Lake Fork Extension Canal and the Lake Fork Canal are together on the left bank of the Lake Fork River, and bear N 80-18'W. 5725 ft. from the center quarter corner of Sec. 35, Tp. 1 N., R. 4 W. U.S.M.;

The head of the Payne Lateral ditch is on the left bank of the Yellowstone River, a tributary of the Lake Fork River, and bears S. 39-51'E. 2302 ft. from the northwest corner of Sec. 21, Tp. 1 N. R. 4 W. U.S.M.;

The head of the Red Cap Canal is on the right bank of the Lake Fork River and bears S 85-35'E. 538 ft. from the north quarter corner of Sec. 4, Tp. 3 S. R. 3 W. U.S.M.;

The head of the Dry Gulch Canal is on the left bank of the Lake Fork River and bears S8-00'W. 546 ft. from the quarter corner common to Sec. 11 and 12, Tp. 3 S. R 3 E. U.S.M.

The head of the Uteland ditch is on the right bank of the Lake Fork River and bears S 61-15'E. 1300 ft. from the northwest corner of Sec. 33, Tp. 2 S., R. 3 W. U.S.M.

2. The water permitted to be diverted by said ditches and canals for irrigation shall be diverted only during the irrigation season of each year, and said season shall not begin before the first day of March or end later than the first day of November; but water may be diverted for domestic, culinary and stock-watering purposes throughout the entire year.

3. The number or acre feet of water permitted to be diverted by each of the ditches and canals above listed, on account of the rights determined in this decree as shown in paragraph one hereof, is the amount of water which may be diverted for irrigation by each of said ditches during the said irrigation season, and in no case shall said amount be exceeded; and the number of second feet of water permitted to be diverted by each of said ditches and canals on account of said rights as shown in said paragraph one shall be the maximum amount of water each of said ditches may divert at any time on account of said rights.

4. No water shall be diverted by said ditches and canals or any of them for irrigation purposes except that which is needed for economical and beneficial use in the irrigation of crops, and no water shall be diverted for other purposes except as herein above in paragraph two allowed, and only such quantities thereof shall be diverted as shall be needed for economical use for said purposes. Said diversions for domestic, culinary and stock-watering uses shall be permitted as needed throughout the year.

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5. The defendants herein all divert water from the Lake Fork River or from one or more of its tributaries, or from supporting waters of said stream through the ditches which they respectively claim to own.

6. The said defendants and their agents and employees, officers, successors, and assigns, and all persons diverting or using water through or under their ditches or any of them, they and each of them, are hereby perpetually enjoined from in any way hindering, preventing or interfering with the diversions or uses of the waters of said rivers herein decreed to the plaintiff or their assigns.

7. For the protection of the water rights herein decreed, a water commissioner shall be appointed from time to time, and assistants shall be given him if necessary, and his and their compensation shall be fixed and allowed, and arrangements for the payment thereof by those who benefit thereby, parties hereunder, shall be made, and the said water commissioner shall be further directed as to his duties, all by separate orders of this Court.

8. In order further to protect the prior rights of the plaintiffs herein decreed, and to do so in the way best suited to conserve the rights and interests of the defendants, who are all junior appropriators, collectively as against the plaintiff, and as against each other, and to insure the most economical use of the waters of said stream, the Water Commissioner shall not only see that the priorities of the plaintiffs are satisfied, but shall also distribute the waters of the stream among the various defendants according to their priorities and rights as they may be ascertained from time to time by agreement between said parties or in some other proper manner. The rights and priorities of said defendants as against the plaintiffs or as among themselves are founded upon appropriations of water by application to the State Engineer of the State of Utah and are subject in their exercise and are conditioned upon compliance with the terms of the application upon which each respective appropriation is based and upon compliance with the provisions of the laws of the State of Utah relating to the appropriation of water and such rights and priorities are not hereby determined, except that they are all junior to those of the plaintiffs herein decreed, and except further that it is hereby decreed that said defendants shall be permitted to divert from said stream during the irrigation season of each year for direct irrigation, which shall not begin before the first day of March or end later than the first day of November, three acre feet of water for each acre of land irrigated, and no more, and shall at no time divert more than one seventieth of a second foot of water for each said acre, and that no water shall be diverted for irrigation except that which is needed for economical and beneficial use in irrigating crops. Water may be diverted for

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domestic, culinary and stock-watering purposes during the entire year. No water shall be diverted for any purpose in excess of that actually needed for such purpose.

.9. This decree determined the rights of the plaintiffs to divert water from the Lake Fork River and its tributaries as against the defendants but it does not determine any rights the plaintiffs or the defendants may have to the waters of said rivers on account of rights in the waters of the Duchesne River or of any stream of streams into which the waters of said Duchesne River flow either mediately or immediately. This decree furthermore does not determine the right, if any, that the purchaser of any allotment of an Indian, who made such purpose prior to the entry hereof, may have to irrigate a greater acreage than that allowed by this decree.

10. Jurisdiction of this cause is retained to enable this Court, for good cause and as occasion may require, to administer this decree through a water commissioner or otherwise; to alter any administrative provisions hereof; and to make other necessary changes herein except to increase the total seasonal amount of water that may be diverted or to change the priority herein fixed or to increase the acreage which may be irrigated under said priority.

11. That each party hereto bear its own costs incurred herein.

Done in open Court this 16th day of March, A. D. 1923.

Tillman D. Johnson,

JUDGE

Filed in the United States District
Court of Utah March 16, 1923.

John W. Christy,

Clerk.